IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No. 251 of 1994

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA
HONOURABLE MS.JUSTICE H.N.DEVANI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME TAX - Applicant(s)

Versus

JAMNAGAR JILLA SAHAKARI KHARIDVECHAN SANGH LTD. - Respondent(s)

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Appearance :
MR MANISH R BHATT for Applicant(
SERVED BY RPAD - (N) for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI

Date : 12/12/2005

ORAL JUDGMENT

(Per : HONOURABLE MS.JUSTICE H.N.DEVANI)

1.The Income Tax Appellate Tribunal, Ahmedabad

Bench “B” has referred the following question under Section 256(2) of the Income Tax Act, 1961 (the Act):

> “Whether, the Appellate Tribunal is right in law and on facts, in setting aside the order made by the Commissioner of Income Tax (Appeals) and directing the Income Tax Officer to pass appropriate orders relating to grant of deduction u/s 80P(2)(a)(iv) considering its earlier decision in assessee's own case for A.Y. 1981-82 being ITA No.818/Ahd/1985?”

2.The Assessment years are 1982-83 and 1983-84 and the corresponding accounting periods are 30th June 1981 and 30th June 1982 respectively.

3.The learned counsel for the applicant has drawn attention to the fact that the Tribunal, while allowing the appeal, has followed its earlier

decision in assessee's own case for assessment year 1981-82. It is pointed out that the said decision of the Tribunal had been carried before this Court by way of reference being Income Tax Reference No.58 of 1994, and that, vide order dated 12/12/2005 made in the said reference, the controversy in issue has been concluded in favour of the assessee. In the circumstances, it is not necessary to set out the facts and contentions in detail.

4.Though served, there is no appearance on behalf of the respondent assessee.

5.Applying the ratio of the aforesaid decision rendered by this Court in Income Tax Reference No.58 of 1994, the question referred is answered in the affirmative i.e. in favour of the assessee and against the revenue.

6.The Reference stands disposed of accordingly,

with no order as to costs.

[D.A.MEHTA, J.]

[HARSHA DEVANI, J.]

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